

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KEVIN SIZER,
Plaintiff,

v.

CITY OF PHILADELPHIA
(DEPARTMENT OF PRISONS),

Defendants.

CIVIL ACTION

NO. 21-3051

ORDER

AND NOW, this 20th day of October, 2021, upon consideration of the Defendant's Motion to Dismiss (ECF No. 3) and Plaintiff's Response thereto (ECF No. 6), **IT IS HEREBY ORDERED** that:

1. The Motion is **DENIED** as to Count I.
2. The Motion is **GRANTED** as to Count II insofar as it seeks monetary relief, but **DENIED** to the extent it seeks equitable relief.
3. The Motion is **GRANTED** as to Count III, and Count III of the Complaint is **DISMISSED WITHOUT PREJUDICE**, with leave to amend.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.